

Preliminary Amendment
Examining Art Unit 1624

CASE HA726 DIV-1

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited in the United States Patent & Trademark Office by U.S. Postal Service Express Mail on the date shown below.

Debra Wojcik
Type or print name

Debra Wojcik
Signature

February 9, 2004
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

ATWAL ET AL.

Examiner: Rao, D.

APPLICATION NO: 10/660,878

Art Unit: 1624

FILED: SEPTEMBER 12, 2003

FOR: HETEROCYCLIC DIHYDROPYRIMIDINE COMPOUNDS

*Fee Purpose
Only*

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SECOND PRELIMINARY AMENDMENT

Sir:

Please enter this second preliminary amendment shown in the attached status of the claims in this application, which is being filed as a divisional of U.S. Application Serial No. 09/729,731, filed December 5, 2000.

REMARKS

The claim numbering in the first preliminary amendment was entered incorrectly and has now been corrected to reflect the correct numbers as claims 61-83. Original claims 55-60 have been cancelled. New claims 80-83 have been added. Upon entry of the above amendments, claims 61-83

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are pending in this application. Support for the amendments can be found in the original claims and throughout the specification. In particular, claim 83 is supported by the specification on pages 30-32 of the above-identified application. No new matter has been added.

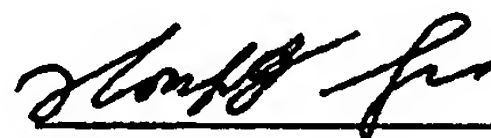
The presently pending claims are not taught or suggested by any prior art. In particular, the art does not teach the use of compounds as are claimed to specifically treat atrial arrhythmias, or to treat any of the other indications as are claimed.

Applicants submit that the amendments presented herein place the claims in condition for immediate allowance, and such favorable action is respectfully requested. If a telephonic communication would further expedite the process, the Examiner is invited to contact Applicants' representative at the telephone number provided.

Please charge any necessary additional fees associated with this filing or credit any overpayment to Deposit Account No. 19-3880.

Respectfully submitted,

Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000
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Henry H. Gu
Agent for Applicants
Reg. No. P55,227

Date: February 9, 2004



Response Under 37 C.F.R. §1.115
Application S.N. 10/660,878
Examining Art Unit 1624

CASE HA726 DIV-1

CERTIFICATE OF MAILING

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Tina Markee
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Tina Markee
Signature

December 16, 2004
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

ATWAL ET AL.

Examiner: Rao, D.

APPLICATION NO: 10/660,878

Art Unit: 1624

FILED: SEPTEMBER 12, 2003

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Alexandria, VA 22313-1450

AMENDMENT & RESPONSE UNDER 37 C.F.R. §1.115

Sir:

The following amendment and remarks are submitted in response to the first Office action on the merits, which was mailed June 16, 2004. A Request for Three-Month Extension of Time is being submitted with this filing.

By way of this pleading, claims 61, 66, 69, 70, 72-73, 75-79 and 81 have been amended, and new claims 84 and 85 are added to the prosecution. Support for these claims is found throughout the original specification, see e.g. Examples 57, 58, 61, 63, 64, 67-69, 76-79, 261, 267, 278, 281, 286, 292, 329 and 510. Claims 64, 65 and 80 stand withdrawn from consideration. A complete listing of the claims is presented in an appendix to this response.

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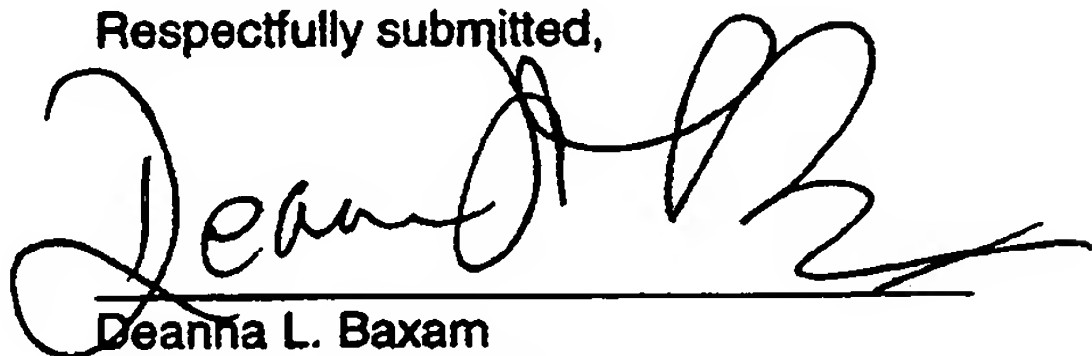
- there is no patentable distinction;
- the present claims have a genus that overlaps the genus claimed in the reference
- it would have been obvious to one of ordinary skill in the art at the time of the invention to select any of the species of the genus taught by the reference because the skilled chemist would have the reasonable expectation that any of the species of the genus would have similar properties and thus the same use as taught for the genus as a whole, i.e. pharmaceutical agents.

Applicants respectfully traverse. First, it is pointed out that this application is filed as a divisional application (resulting from a restriction requirement imposed by the Office) of the application which matured into U.S. Patent 6,706,720. As a matter of law therefore, imposition of a double patenting rejection of this type is improper. Neither is there any real issue of overlap between the claims of this application and those of the patent, because the genus of compounds defined in the present claims do not overlap with the compounds claimed in the granted patent.

Please charge any necessary additional fees associated with this filing or credit any overpayment to Deposit Account No. 19-3880.

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Respectfully submitted,



Deanna L. Baxam
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Date: December 16, 2004